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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,458	02/10/2004	John Scott Heuvel	049220-9006-00	1353

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

02/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/775,458

Applicant(s)

HEUVEL ET AL.

Examiner

CHI Q. NGUYEN

Art Unit

3635

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

This Office action is in response to applicant's amendment filed on 12/9/2008.

Status of Claims

Claims 1-6 and 8-21 are pending.

Claim 7 has been cancelled.

Upon further reconsideration, the previously stated allowable subject matters of claim 7 are being withdrawn and with new arts and rejections as followed:

Drawings

The drawings were received on 12/4/2008. These drawings are acknowledged and accepted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 8-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,958,954 to Ehlenbeck in view of US Pat. No. 3,477,080 to Finsterwalder et al.

Claims 1-6, 8 and 12-21: Ehlenbeck discloses in Figs. 1-2, a pre-formed concrete section 10 comprising a deck 12 including a first side, a second side opposite the first side, and a width extending between the first and second sides, a plurality of weldments 20 connected to and spaced along the first side, each of the plurality of weldments 20

including a plurality of arms 26 embedded in the first side, a top surface, a bottom surface opposite the top surface, and a thickness extending between the top and bottom surfaces, and a first leg and a second leg projecting from the bottom surface, a distance in a direction substantially parallel to the deck. Ehlenbeck discloses the basic structures for the concrete section as stated but does not specifically disclose a distance from the center of the first leg to the center of the second leg being more than two, three, four, or more than four times greater than the distance from the first side to the center of the first leg and a central portion disposed between the first and second legs, the thickness of the deck being substantially constant as the central portion extends along at least a portion of the width of the deck; and a first inner portion extending between the first leg and the central portion of the deck, the thickness of the deck decreasing as the first inner portion extends inwardly from the first leg to the central portion. Finsterwalder et al. disclose elevated highway structures comprising a concrete section (see Fig. 1) including a distance from the center of a first leg 1 to the center of a second leg 1' being more than two, three, four, or more than four times greater than the distance from the first side to the center of the first leg and a central portion disposed between the first and second legs, the thickness of the deck being substantially constant as the central portion extends along at least a portion of the width of the deck; and a first inner portion extending between the first leg and the central portion of the deck, the thickness of the deck decreasing as the first inner portion extends inwardly from the first leg to the central portion. In view of Finsterwalder et al. it would have been obvious to one having ordinary skill in the art at the time the invention

was made to modify Ehlenbeck's concrete section as taught by Finsterwalder for its suitable applications, e.g. wider pathway with smaller clearance.

Claim 9: Wherein the thickness of the deck decreases at a relatively constant rate as the first and second outer portions extend outwardly from the first and second leg, respectively, toward the first and second side, respectively (see Fig. 1).

Claims 10-11: Ehlenbeck in view of Finsterwalder et al. disclose the basic structures as stated but do not expressly disclose wherein the width of the deck is between about 17 feet and about 19 feet, and wherein the width of the deck is about 18 feet. However, this feature would have been a matter of obvious design choice to one of ordinary skill in the art at the time the invention was made to have such a spacing distance between a center of the first leg to a center of the second is more than two, three, four or more than half the width of the deck for desirable application. Furthermore, applicant has not disclosed the criticality of this feature.

Response to Arguments

Applicant's arguments with respect to claims 1-6 and 8-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./
Examiner, Art Unit 3635

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635